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No. 06-1615

FILED
OCT 26 2007
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In the

# SUPREME COURT OF THE UNITED STATES

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IN RE PETITION OF
LE BON BRUCE WALKER,
*Petitioner,*

v.

NEIL SELDMAN, ESQUIRE
ELIZABETH MENIST,
DIANE STEWART,
*Respondents.*

*On Petition for Writ of Certiorari*
*to the District of Columbia Court of Appeals*

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## PETITION FOR REHEARING

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## PETITION FOR REHEARING

Petitioner Le Bon Bruce Walker ("Walker") respectfully submits this Petition for Rehearing and asks this Court to revisit the issue outlined in his Petition for a Writ of Certiorari at Argument No. II under Reasons for "Granting the Petition" on the important issue of whether the due process Clause of the Fifth Amendment to the United States Constitution provides an equal right to counsel for persons proceeding in matters involving the loss of real property as it does for accused persons. In other words, should the courts in territories or non-states where the Fifth Amendment to the U.S. Constitution provides due process protections apply the same heightened rights to persons' real property rights as it does to persons accused of a crime? Petitioner maintains that it should.

Petitioner certifies that the grounds herein are limited to an intervening circumstance of substantial or controlling effect not available when the Petition for a Writ of Certiorari was first filed.

In March 2007, Congress rejected the Bill entitled the "DC Fair and Equal House Voting Rights Act of January 2007". As a result, District of Columbia residents still technically receive their due process rights under the Fifth Amendment to the United States Constitution which contains no Equal Protection of the Laws Clause found in the Fourteenth Amendment to the U.S. Constitution. DC residents are not any closer to receiving the rights afforded to residents of States under the Equal Protection of the Laws Clause in the Fourteenth Amendment that Congress must enforce and that the State Courts must adhere to in applying due process protections in civil matters. Petitioner maintains that the DC Superior Court's dismissal of his action for want of prosecution, where the Court placed him in the "catch - 22" position of proceed without counsel or receive an adverse ruling regarding his valuable real property denied to him the equal protection of the laws under the 14th Amendment to the U.S. Constitution. Moreover, Petitioner contends that the DC Courts are under no technical obligation to enforce the heightened due process protections to legal counsel under the Fifth Amendment because the matter was a civil case

not a criminal case.

Petitioner believes that the language of the Fifth Amendment guarantees a right to counsel, particularly in matters involving the deprivation of valuable real property (such as the highly valued real estate in the District of Columbia). In essence, Petitioner maintains that even a civil litigant proceeding in a matter involving his or her real estate and in the absence of any applicable equal protection of the laws clause to enforce a right to counsel should be given the same right as a person proceeding on a criminal matter. Walker should not have been forced as a pro se litigant to make the decision to proceed without counsel.

**The Due Process Clause of the Fifth Amendment to the United States Constitution Provides an Equal Enforcement Right to Counsel for Persons Proceeding on Matters Involving Real Property as it does for Persons Accused of Crimes**

The Fifth Amendment to the United States Constitution provides in pertinent part:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when it actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The words of the Fifth Amendment to the United States Constitution strictly construed may be interpreted to mean that any deprivation of rights be it over one's person or property invokes street adherence to the due process clause to an automatic right to counsel in controversies no person should request counsel and not be given the opportunity to obtain

representation by the Court.

In territories or non-states such as the District of Columbia, the due process clause of the Fifth Amendment applies to these municipalities. There is no equal protection of the laws clause contained in the Fifth Amendment. This Amendment is a restraint on the legislative and on the executive and judicial powers of government. Courts should be required to guarantee the absolute right to representation by counsel in civil matters involving real property as it does for accused persons. *Miranda v. Arizona,* 384 U.S. 436(1966); *Wright v. Davidson,* 181 U.S. 371, 384 (1901); *Murray's Lessee v. Hoboken Land and Improvement Co.,* 59 U.S. (18 How.) 272, 276 (1856). Indeed, the desire to protect one's property was foremost in the minds of the people when the United States Constitution was framed.

In the instant case, the trial court in the District of Columbia dismissed Petitioner's claims to ownership of his property because he would not argue his case without counsel. Walker maintains that the circumstances that brought him to the point where he stood without legal representation on the day of his trial, nor the fact that the Defendants stood ready to proceed to trial on that day should have formed the basis for the Court's cavalier attitude towards him. Here, the trial court made it clear that he had to proceed to trial with or without counsel or have his case dismissed. (See Petition for Cert Writ at 2-13). The very fact that the trial court failed to grant a continuance to Petitioner or advise and give him adequate time to get legal counsel before it proceeded to conduct the trial constitutes a violation of Walker's due process rights under the Fifth Amendment to the U.S. Constitution.

Petitioner submits that the courts in instances where a criminal matter is not involved are not really required to enforce the provisions of the Fifth Amendment even though the tribunals are located in areas that are not States. Walker argues as he did in his Petition for a Writ of Certiorari that the Fifth Amendment should be read to mean that every component of this Amendment whether it involves due process protections in criminal

proceedings or real property issues should have the same force with respect to the right to counsel and the court making every attempt to facilitate that right. No person should stand before a court governed by the provisions of the Fifth Amendment to the U.S. Constitution and be forced to proceed without counsel or risk an adverse decision.

It is a total abridgment of one's rights to have to defend himself in his own proper person against the taking of his real property. This is a grey area and this Court's denial of the Petition for a Writ of Certiorari on this issue was perhaps misplaced. If an accused has a right to counsel to the extent that courts do not allow such a person to proceed without counsel, before *advising* such a person of this right then persons proceeding in matters involving their real property should have the same rights.

The right to own and protect one's real property is a valuable one protected by the Fifth Amendment to the United States Constitution in the District of Columbia. Any proceeding that could result in a loss of property be it real property or otherwise (i.e. liberty interests, etc.) must be governed by heightened due process protections which include a right to counsel facilitated by the Court. In the District of Columbia, real property values have skyrocketed and the District is not a state; it does not have strictly, speaking, the Equal Protection of the Laws Clause inherent in the Fourteenth Amendment to the U.S. Constitution as States do. *Marbury v. Madision,* 5 U.S. 137, 174 (1803); *South Carolina v. United States,* 199 U.S. 437, 438 (1905); *Gibbons v. Ogden,* 22 U.S. 1 (1824),

The situation if left unprotected by the due process clause of the Fifth Amendment as to the heightened right to counsel, opens up the passageway for privacy and homelessness. This Court should rehear and grant the Petition for a Writ of Certiorari on all of the issues raised but particularly on this issue.

## CONCLUSION

Petitioner prays that this Court grant Rehearing on this issue.

Respectfully submitted,
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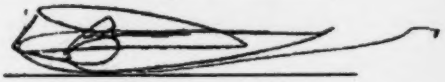
DATED: October 25, 2007
RE SUBMITTED: November 13, 2007

## CERTIFICATION OF PETITIONER

I hereby certify that this Petition for Rehearing is filed in good faith and not for purposes of delay.

Respectfully submitted,



Le Bon Bruce Walker